



# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Linda S. Adams  
Secretary for  
Environmental Protection

Arnold Schwarzenegger  
Governor

Certified Mail: 7003 1680 0000 6174 8999

April 20, 2007

Mr. P. Michael Freeman, Chief  
Los Angeles County Fire Department  
1320 North Eastern Avenue  
Los Angeles, California 90063

Dear Mr. Freeman:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Health Hazardous Materials Division, Los Angeles County's Certified Unified Program Agency (LACoCUPA) on March 28 and 29, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that LACoCUPA's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first Deficiency Progress Report is due on June 27, 2007.

Cal/EPA also noted during this evaluation that LACoCUPA has worked to bring about a number of local program innovations, including: implementing several remarkable measures to ensure the program is consolidated, coordinated, and consistent with the County of Los Angeles as well as state-wide and developing a very thorough Administrative Enforcement Order packet that includes statement of facts, documentation of evidence, a penalty calculation, and a referral summary that clearly restates violations subject to formal enforcement. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Don Johnson", with a long horizontal flourish extending to the right.

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

cc: Mr. Bill Jones, Chief (Sent Via Email)  
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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

**CUPA:** **County of Los Angeles Fire Department  
Health Hazardous Materials Division**

**Evaluation Date:** **March 28 and 29, 2007**

### **EVALUATION TEAM**

**Cal/EPA:** **JoAnn Jaschke**  
**SWRCB:** **Sean Farrow**  
**OES:** **Fred Mehr**  
**DTSC:** **Mickey Pierce**  
**OSFM:** **Francis Mateo**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
<b>1</b>	The permit is missing the state UST identification number(s).  <b>[Title 23, California Code of Regulations (CCR), Section 2712 (c)], SWRCB</b>	By March 30, 2008, the LACoCUPA will amend their permit to include the state UST identification number(s).
<b>2</b>	The LACoCUPA is not ensuring that the Participating Agencies (PA) are meeting the required program elements. For example,  1. Pasadena Fire Department (PFD) PA has not conducted the underground storage tank (UST) facility inspections on an annual frequency. During the past fiscal year (2005/2006), the PA inspected approximately 28% of the UST facilities.  According to PFD, they have inspected 53 of 74 facilities for the FY 2006/2007. Health and Safety Code (HSC), Section 25288 (a)	For example 1, the LACoCUPA will ensure that by June 30, 2007, the PA will inspect every underground tank system within its jurisdiction at least once every year.  By September 30, 2007, the LACoCUPA will provide Cal/EPA with a plan that addresses how LACoCUPA will ensure their PAs are meeting the program requirements and begin implementing the plan.

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<p>2. On March 27, 2007, the LACoCUPA conducted an oversight inspection of one of their PAs - the Agricultural Commissioner, with OES observing. During the inspection, the inspector for the Agricultural Commissioner did not ensure that the business plan covered all the required elements included in Title 19, CCR, Section 2732. The following information was missing:</p> <ul style="list-style-type: none"><li>• An emergency plan /procedure.</li><li>• Not all the hazardous materials were in the business plan inventory. The inventory did not include fuel tank trailers (MC 301) attached to diesel water pumps as stationary fuel tanks. The tanker trailers did not have a registration and were not connected to a truck.</li><li>• The training program did not contain all the required elements.</li></ul> <p>Before the oversight inspection, the inspector for the Agricultural Commissioner showed the LACoCUPA and OES a farm that had not submitted a business plan or inventory after repeated request. The farm had over 55 gallons of both diesel and gasoline in the maintenance yard.</p> <p>After the oversight inspection, the inspector for the Agricultural Commissioner showed the LACoCUPA and OES four 1 ton chlorine cylinders (Federal RMP notification) stored in a nearby unplanted field. Ownership of the property with the cylinders was not known. It was explained that chlorine is used as an irrigation plugging prevention agent at higher concentrations. The 1 ton chlorine cylinders should have been added to the inventory of the farm and referred to the LACoCUPA CalARP section when they were discovered by the PA. HSC 25534 and 25505(a)(2)</p> <p>3. Some PAs do not always attend the regular quarterly meetings. Title 27, CCR, Section 15180(a)(7).</p> <p><b>[Title 27, CCR, Sections 15180(a) (8)], OES, SWRCB, and Cal/EPA</b></p>	
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3	<p>The LACoCUPA is not ensuring that businesses certify at least once every three years that they have reviewed their business plan and that necessary changes were made to the plan.</p> <p>20 percent (4 out of 20) of the business plan files reviewed either, needed a recertification or needed to be updated.</p> <p><b>[HSC Section 25505(c)], OES</b></p>	<p>By September 30, 2007, the LACoCUPA will provide Cal/EPA with a plan that requires the businesses to certify at least once every three years that they have reviewed their business plans and the necessary changes were made to the plans.</p>
4	<p>The CUPA is not meeting its inspection frequencies for businesses subject to the hazardous waste and tiered permitting program elements.</p> <ul style="list-style-type: none"> <li>•A review of files showed that of the 20 generator files reviewed, 4 had not been inspected in the past 3 years, and of the 7 Tiered Permitting files reviewed, 2 had not been inspected in the past 3 years. A brief survey of suspected RCRA LQGs files in the El Monte office showed that 5 of 28 facilities were not inspected in the past 3 years. Of these 28 facilities, files for 11 of the facilities could not be located and were indicated as being checked out by inspectors.</li> <li>•Only 78 of the 169 RCRA LQGs that appear on both the LACoCUPA's and DTSC's lists were reported as being inspected between January 1, 2004 and January 1, 2007, according to the LACoCUPA's submitted RCRA LQG quarterly reports.</li> <li>•According to the LACoCUPA's Inspection Summary Report from FY 2003/04-2005/06, 187 routine RCRA LQG inspections have been conducted, with an average universe of RCRA LQGs reported to be 276 facilities for the same period.</li> </ul> <p>The CUPA identified this deficiency in its 2005/06 action plan for areas of deficiency under the heading "overdue routine inspections".</p> <p><b>[Title 27, CCR, Section 15200(f)], DTSC</b></p>	<p>The LACoCUPA will ensure that all RCRA LQGs and Tiered Permitting sites that have not been inspected in the past three years are inspected by April 1, 2008.</p>
5	<p>The LACoCUPA's reporting does not adequately demonstrate that all Class I Hazardous Waste violations are having formal enforcement actions taken for them. The Annual Enforcement Reports for FY 2004/05 and FY 2005/06 show a total of 45 facilities with Class I violations, 56 AEO cases filed, and 10 criminal enforcement action referrals.</p>	<p>The LACoCUPA will provide a summary of the enforcement status of all facilities identified as having Class I hazardous waste violations in FY 2004/05 and FY 2005/06. This summary will be provided within 90 days. Additionally the LACoCUPA will ensure that the proper enforcement</p>

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It was indicated that the 56 AEO cases reported in FY 2005/06 were all initiated against facilities for failure to pay permit fees, leaving only 10 reported Criminal enforcement referrals demonstrating enforcement against 45 facilities with Class I violations.  [Title 27, CCR, Section 15290(g)], DTSC	action was taken in each instance.
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**CUPA Representative**

Karen Coddling  
(Print Name)

Original Signed  
(Signature)

**Evaluation Team Leader**

JoAnn Jaschke  
(Print Name)

Original Signed  
(Signature)

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**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

*The observations and recommendations provided in this section address activities the CUPA is implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute*

1. **Observation:** Under the New Business Project, the LACoCUPA identified and started regulating an additional 1139 facilities in the FY 05/06 as well as 693 in the FY 04/05, bringing the total number of regulated facilities to approximately 20,000. The New Business Project identified potential facility types that should be regulated under the Unified Program. Additionally, the project developed an implementation plan to bring the facilities into the Unified Program. These first additions are the government facilities identified as entities that should be regulated under the Unified Program. Other types of businesses include: dental and doctor offices, flower shops, food retail markets, gas stations, high rise buildings, home improvement/hardware outlets for propane, diesel, castoffs, spills, waste paint and oil, hospitals and clinics, malls, hotels and motels, swimming pools, party supply stores, universal waste facilities, and water treatment sites.

**Recommendation:** Continue to implement the New Business Project.

2. **Observation:** The LACoCUPA is initiating enforcement by developing a case referral packet within the recommended 135 day timeframes, but is generally not initiating the enforcement with the business within a timely manner. The three cases reviewed showed a lag of 270 days, 365+ days, and 365+ days, respectively between the inspection report date and any documented formal enforcement action.

**Recommendation:** Develop and run monthly management reports that will assure that any facility identified as having a Class I violation have the case development materials submitted in a timely manner. The LACoCUPA may also want to revise its AEO policy to incorporate timelines or milestones for submittal to management, referral to Investigations section, and filing of the show cause letter or Order.

3. **Observation:** There appears to be a large discrepancy between DTSC and the LACoCUPA with respect to the identified universe of RCRA LQGs.
  - Both lists contain 169 facilities in common.
  - The CUPA's list includes an additional 167 facilities not identified by DTSC.
  - DTSC's list includes 165 facilities not identified by the CUPA.
  - During the file review it was noted that 4 of the 17 facilities identified by the CUPA as RCRA LQGs may not be RCRA LQGs, in the evaluator's opinion.
  - During the file review it was noted that 4 of 28 files identified by DTSC as RCRA LQGs did not appear to be RCRA LQGs or were 1-time (episodic) RCRA LQGs.

**Recommendation:** Provide each inspector with a list of potential RCRA LQGs, and remind them to (1) do a waste volume calculation during the inspection to confirm this designation and/or (2) to check DTSC's hazardous waste tracking system (HWTS)/manifest records of waste shipped for additional information about waste volumes shipped



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in the past year prior to inspection as an indicator of types and volumes of RCRA waste generated.

4. **Observation:** The LACoCUPA's inspection report does not have space to record the classification of a violation, nor is this indicated by the inspector anywhere in the report. The violation classification is recorded only on the "Facility Information Report" after the inspection findings are entered by the inspector.

**Recommendation:** The LACoCUPA may want to have inspectors note the classification of each violation, or at least the minor violations on all inspection reports to clarify which violations are not subject to formal enforcement if complied with within the prescribed timeframes.

5. **Observation:** The LACoCUPA may want to standardize its filing procedure for final, settled Administrative Enforcement Orders and related materials. It was indicated that the procedures for handling and filing AEOs differed between the various offices. One file reviewed contained a note in the Inspector's Notes section indicating the case had been settled, but the final settlement document was not found in the file, only the case development materials.

**Recommendation:** The LACoCUPA may want to designate a different folder (red?) for storing closed enforcement cases or amend its policy to explain how settled cases should be handled.

6. **Observation:** PFD does not schedule annual compliance inspections with annual certification testing.

**Recommendation:** PFD should schedule annual compliance inspection with annual certification test. This will provide less downtime time for the facility during the year.

7. **Observation:** During the oversight inspection, the UST inspector for PFD conducted a very thorough inspection to include looking at Hazardous Material Storage Permits, Hazardous Materials Business Plan, and Fire Code.

8. **Observation:** The inspection checklist for PFD is not detailed enough to provide an accurate compliance picture. While many of the elements are inclusive in a general category of compliance, in order to ensure that the majority of compliance elements are covered in the inspection, it should be a separate violation. Significant operational compliance (SOC) items are not detailed on the inspection checklist.

**Recommendation:** The State Water Board strongly encourages the agency to develop a thorough UST facility inspection checklist with citations. The inspection checklist should include (tank, piping, sump, under-dispenser, overfill spill bucket, overfill prevention systems, audible/visual alarm, leak detection monitoring sensors, leak detection control panel, cathodic protection, alarm history, tri-annual secondary containment testing, designator operator, employ training, record keeping, etc.) that an inspector needs to verify to determine compliance. A detailed inspection checklist will aid the agency inspectors in completing thorough and consistent facility inspection.

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9. **Observation:** File review of several files from PFD and LACoPW's showed that many items were missing from the files: monitoring and response plans, annual monitoring certifications and testing reports, installation records and construction inspection reports, upgrade records, financial responsibility records, designated operator designation, certificate of compliance, etc.

**Recommendation:** Ensure that files are complete prior to conducting facility inspection. If facility has the missing paperwork, have them fax or copy the material so that your files match their files.

10. **Observation:** File review was difficult due to lack of organization at PFD and LACoPW.

**Recommendation:** Consider using a multi-section file folder to enhance organization, retrieval, and review of documents.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. The LACoCUPA has implemented several remarkable measures to ensure the Unified Program implementation is consolidated, coordinated, and consistent within the County as well as state-wide. The activities include:
  - Developing a Standard Operating Procedure Manual for the Inspection Section which includes procedures on Hazardous Materials Remote Facilities, Productivity Standard, Supervised Survey (yearly, supervisors conduct field reviews of the inspectors), Electronic Recording of Determined Violations, Revisit Fee, Tiered Permitting, Equipment Carried in the Field, Determining Violation Classifications, Referrals, and Inspection Priorities.
  - Developing an instrument training manual that thoroughly explains all the various equipment used in the field – gas meters, mercury meters, radiation meters, ammonia meters, chlorine meters, colorimetric indicator tubes and chips, APD 2000, MICROCAT/WMD kit, and Hazcat Kits. The manual identifies and explains the various instruments, includes detailed instructions on using each of the instruments, includes photographs of the equipment, covers the sensitivity range, principles of operation, deficiencies, calibration, display, controls, battery requirements, and vendor contact information.
  - The LACoCUPA conducts, participates, and formed several subcommittees, committees and meetings at the local level, regionally, statewide and at the federal level to address issues within the department, the division and the regulated business community. Locally, the LACoCUPA conducts quarterly meeting with their 12 PAs, conducts forms evaluation committee meetings, participants in the Local Emergency Response Planning Committee, and Bio-terrorism Group. Regionally, the LACoCUPA attends bi-monthly meetings with all the other CUPAs' in Los Angeles County, attends the Orange County's CUPA meetings (LACoCUPA is a PA to Orange County), and holds meetings with the City of Los Angeles and the City of Santa Monica as needed (LACoCUPA is a PA to both the City of Los Angeles and the City of Santa Monica). Statewide, LACoCUPA is actively involved in the CUPA Forum and many of the subcommittees of the CUPA Forum Board, and the Technical Advisory Groups. Federally, the LACoCUPA participates in US EPA, Region 9's Federal Strike Forces that includes participation from the US Attorney's Office, US Coast Guard, and the State of California.
  - The LACoCUPA has an outstanding organizational structured that allows each section to focus on specific HMMD/CUPA activities (i.e., administration and planning section supports the other sections to free them up to focus on inspections, investigations, emergency response, etc.)
  - The LACoCUPA is doing a good job of responding to and documenting response to complaints. Over the past three years, approximately 50 complaints have been referred to the LACoCUPA by DTSC and U.S. EPA. Each complaint was noted as being investigated, and all files reviewed that contained complaint investigation reports indicated investigation within 30 days of assignment to the inspector.

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- The LACoCUPA is proactive in planning for the future by increasing enforcement activities, hiring personnel to address the growing number of regulated businesses, and upgrading technological tools and data management.
2. The LACoCUPA is implementing a comprehensive Outreach Program. This program includes presentations to government and community groups, workshops for business groups, and exhibits and displays at health fairs and other community events. Additionally, the CUPA redesigned their Website. Facilities can download forms and submit them electronically to the LACoCUPA.
  3. The LACoCUPA is implementing a single fee system and fee accountability program that ensures fees are set at a level that covers the necessary and reasonable costs to implement the Unified Program. This is a very thorough process that is performed each year by the LACoCUPA, the FMD, and the County Auditor which includes a comparison of actual expenditures, actual revenues, and the revenues projected. Based on the comparative analysis, the fees are adjusted as necessary to reflect the true and accurate cost of the LACoCUPA's implementation of the Unified Program.
  4. The LACoCUPA performs a thorough assessment of their implementation of the Unified Program each fiscal year and reports the results in their self-audit report as well as in an Annual Division Report. The LACoCUPA's self audit provides a good analysis of the base data collected, allowing the CUPA to look at trends and identify strengths and weaknesses of its program. Examples include the routine inspection rates, rates of inspections resulting in violations, and rates of facilities that have returned to compliance within expected time frames. Their self-audit report also includes a detailed analysis of their staffing levels within each section.
  5. The LACoCUPA's Administrative Enforcement Order development packets are very thorough as they include a statement of facts, documentation of evidence, a penalty calculation, and a referral summary that clearly restates violations subject to formal enforcement.
  6. The LACoCUPA has done a good job of implementing changes identified during previous evaluations as deficiencies and recommendations for change. Of note, violation classification and documentation have shown marked improvement in those files reviewed that had inspections conducted since the last performance evaluation in 2004.
  7. The LACoCUPA's has an extensive training program that encompasses a training committee, internal and regional training coordinators, maintaining a training matrix, and tracking. The training committee determines the training needs, develops a training calendar, and proposes training programs and modifications to the matrix when needed. The coordinators notify staff of upcoming trainings and coordinate with various State and Federal agencies involved with providing training for the CUPAs. The training matrix for the Health Hazardous Materials Division identifies the desired, annual, and required training for the following classification levels: Clerical, Hazardous Materials Specialists, Supervising Clerical, and Supervising Hazardous Materials Specialists. The Hazardous Materials Specialists and Supervising Hazardous Materials Specialists classifications are further broken down into section specific requirements for staff working in the various sections (technical, administrative, inspections, emergency operations, investigations, CalARP, and site mitigation) of the Health Hazardous Materials Division.

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8. The CUPA has done a good job of identifying and including in its inventory the various subcategories of hazardous waste generators, including registered appliance recyclers, recyclers, and RCRA Large Quantity Generators. The inspector that conducted the oversight inspection demonstrated exceptional awareness of the recycling universe.
9. The CUPA works in coordination with the fire prevention staff to recognize high risk facilities and perform joint inspections. Additionally, the CUPA has a 24-hour emergency response unit consisting of 18 responders who responded to over 2000 incidents last year which included responses in other CUPAs' jurisdictions.